

## Message Text

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ACTION ARA-10

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TAGS: PFOR, OAS

SUBJ: PREPARATIONS FOR SAN JOSE CONFERENCE (RIO TREATY)

REF: (A) STATE 133032; (B) SANTIAGO 3749

SUMMARY. GOC CONTINUES TO WISH AS LITTLE CHANGE TO RIO TREATY AS POSSIBLE. VIEWS ON SPECIFIC TREATY ARTICLES GENERALLY COINCIDE WITH OURS. ACTION: GOC REQUESTS REPLIES TO QUESTIONS AT END MESSAGE. END SUMMARY.

1. ON JUNE 10 AND 12, DCM REVIEWED U.S. POSITIONS AS INSTRUCTED REFTEL (A) WITH AMB. BERNSTEIN, FOREIGN MINISTRY POLITICAL ADVISOR AND DEPUTY CHIEF GOC DELEGATION TO SAN JOSE CONFERENCE. BERNSTEIN IS PRESENTLY REVIEWING GOC POSITIONS WITH MILITARY JOINT STAFF. THIS REVIEW HAS PROCEEDED THROUGH ARTICLE 5 OF THE PROPOSED AMENDMENTS. POSITIONS DESCRIBED BELOW HAVE MILITARY CLEARANCE THROUGH ARTICLE 5 BUT ARE FOREIGN MINISTRY POSITIONS ONLY ON SUBSEQUENT ARTICLES. BERNSTEIN WILL INFORM US IF SUBSEQUENT REVIEW CHANGES GOC POSITIONS.

2. IN GENERAL GOC BELIEVES THAT EXTENSIVE SPECIAL COMMITTEE CONSIDERATION OF RIO TREATY, WITH SUCH MEAGER RESULTS IN TERMS OF PROPOSED AMENDMENTS, IS SIGNIFICANT DEMONSTRATION THAT THERE IS OAS CONSENSUS THAT RIO TREATY IS NEEDED AND THAT ORIGINAL TREATY IS FAR FROM A BAD JOB. GOC CONTINUES TO BELIEVE THAT THE FEWER AMENDMENTS TO RIO TREATY THE BETTER. GOC GENERALLY

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IS UNEASY THAT PROCESS OF ACCOMMODATION IN EFFORT TO ACHIEVE

AGREEMENT ON AMENDMENTS MAY HAVE GONE TOO FAR.

3. VIEWS ON SPECIFIC ARTICLES ARE AS FOLLOWS:

(A) ARTICLE 2

GOC PREFERS EXISTING TREATY LANGUAGE BUT IN FINAL ANALYSIS WILL ACCEPT PROPOSED CHANGE. GOC AGREES WITH URUGUAY THAT PARAGRAPH 3 OF AMENDED ARTICLE IS BOTH UNNECESSARY AND INADVISABLE. GOC ALSO IS BOTHERED BY PARAGRAPH 2 OF THE PROPOSED AMENDED TEXT. GOC FEARS ITS REFERENCE TO "SITUATIONS WHICH MIGHT LEAD TO INTERNATIONAL FRICTION OR ENDANGER INTERNATIONAL SECURITY" COULD BE USED BY BOLIVIA AGAINST CHILE. GOC BELIEVES USG SHOULD BE SIMILARLY CONCERNED LEST OTHERS USE IT AGAINST US ON SUCH ISSUES AS FISHERIES DISPUTES, HICKENLOOPER AMENDMENT, ETC. GOC WILL SEEK TO PRESERVE PRESENT LANGUAGE THIS ARTICLE IF THERE IS A DECENT PROSPECT THAT THIS POSITION CAN PREVAIL. BERNSTEIN BELIEVES THAT U.S. HELP WILL BE NECESSARY FOR THIS TO BE THE CASE.

(B) ARTICLE 2(BIS)

GOC OPPOSES THIS ARTICLE ON THE GROUNDS THAT ECONOMIC SECURITY HAS NOTHING TO DO WITH THE POLITICAL/MILITARY OBJECTIVES OF THE RIO TREATY AND THAT A CALL FOR A SPECIAL TREATY ON THIS SUBJECT HAS NO PLACE IN THE RIO TREATY. BERNSTEIN SUGGESTED AT ONE POINT THAT THIS ITEM MIGHT GO IN THE CHARTER. HE AGREES THAT USE OF ADJECTIVE "INTEGRAL" HERE BORDERS ON NONSENSE. GOC WILL SEEK TO ELIMINATE THIS ARTICLE.

(C) ARTICLE 3

LIKE USG, GOC IS HAPPY WITH PRESENT LANGUAGE OF ALL AMERICAN STATES BUT RECOGNIZES THE VALIDITY OF LEGAL ARGUMENTS ON BEHALF OF CHANGING COVERAGE TO CONTRACTING PARTIES AND ACCEPTS THIS FEATURE. GOC SHARES OUR CONVERN OVER AMBIGUITY IN AMENDED TEXT CONCERNING OBLIGATORY CHARACTER OF THE "ATTACK AGAINST ONE IS AN ATTACK AGAINST ALL" PRINCIPLE IN CASE OF AN ATTACK FROM OUTSIDE THE HEMISPHERE. LIKE USG, GOC HAS ACCEPTED NEW LANGUAGE ON GROUNDS THAT, DESPITE AMBIGUITIES, THERE IS GENERAL AGREEMENT LIMITED OFFICIAL USE

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THAT THERE WOULD BE NO SUBSTANTIVE DIFFERENCE BETWEEN THE ACTUAL COVERAGE OF EXTRA-HEMISPHERIC AND INTRA-HEMISPHERIC ATTACK. NEVERTHELESS GOC WILL JOIN WITH US IN EFFORT TO ELIMINATE AMBIGUITY.

(D) ARTICLE 4

GOC NOTES THAT RESPONSIBILITY FOR DRAFTING TEXT THIS ARTICLE

HAS NOT BEEN ASSIGNED. GOC WILL SUGGEST THAT INTER-AMERICAN DEFENSE BOARD BE ASKED TO PREPARE DRAFT.

(E) ARTICLE 6

GOC SHARES OUR OBJECTIVES 1) TO RETAIN THE ABILITY OF THE ORGAN OF CONSULTATION TO MEET AND ACT IN CASES OF CONFLICT SHORT OF ARMED ATTACK AND 2) TO MAKE SUCH ACTION POSSIBLE IF THERE IS A THREAT TO PEACE AND SECURITY ANYWHERE IN THE HEMISPHERE WHETHER IN A MEMBER COUNTRY OR NOT.

GOC AGREES LANGUAGE CAN BE IMPROVED AND WILL COOPERATE IN EFFORT TO DO SO.

(F) ARTICLE 8

BERNSTEIN DOES NOT LIKE THE INTRODUCTION OF REFERENCE TO "CONCILIATORY OR PEACEKEEPING STEPS" IN THIS ARTICLE. HE DID NOT COMMENT ON OUR PREFERENCE FOR PROVIDING FOR THESE STEPS IN ARTICLE 20 RATHER THAN HERE. HE BELIEVES THEY ARE OUT OF PLACE HERE AND HAVE THE EFFECT OF BLUNTING THE SANCTIONS ENUMERATED IN THE REMAINDER OF THE PARAGRAPH. NEVERTHELESS GOC FINDS NEW LANGUAGE ACCEPTABLE AS WE DO.

(G) ARTICLE 9

BERNSTEIN WOULD HAVE BEEN CONTENT TO SEE THIS ARTICLE ELIMINATED. HE IS INCLINED TO AGREE WITH US THAT A DEFINITION OF AGGRESSION IS SUPERFLUOUS. MOREOVER HE OBJECTS THAT THE TREATY GENERALLY SEEKS TO DISTINGUISH BETWEEN "ARMED ATTACK" ON THE ONE HAND AND "AGGRESSION WHICH IS NOT AN ARMED ATTACK" ON THE OTHER, WHEREAS ILLUSTRATIONS OF ACTS OF AGGRESSION PROVIDED IN AMENDED ARTICLE ARE VIRTUALLY ALL SYNONYMOUS WITH LIMITED OFFICIAL USE

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ARMED ATTACK. NEVERTHELESS GOC ACCEPTS AMENDMENT.

(H) ARTICLE 17

BERNSTEIN FLATLY ASSERTS THAT GOC WILL SUPPORT AMENDED ARTICLE DESPITE ITS SENSITIVITY HERE BECAUSE OF CONNECTION WITH THE CUBAN ISSUE. BERNSTEIN SAYS THAT HE HAS CARRIED THE DAY ON THIS ITEM WITH HIS ARGUMENT THAT GOC NEEDS TO THINK ABOUT THE TREATY RATHER THAN ABOUT THE INCIDENTAL EFFECT UPON THE CUBAN ISSUE. HE ADMITS THAT HE HAS HAD A DIFFICULT TIME.

(8) ARTICLE 20

AT THIS MOMENT THIS APPEARS TO BE THE ONLY ARTICLE CONCERNING WHICH OUR VIEWS SERIOUSLY DIVERGE. BERNSTEIN BELIEVES THE INTRO-

DUCTION OF RECOMMENDATORY AS WELL AS OBLIGATORY MEASURES  
SERIOUSLY WEAKENS THE TREATY.

4. BERNSTEIN REQUESTED OUR REPLIES TO THE FOLLOWING QUESTIONS:

(A) WHAT WERE USG OBJECTIVES IN PROPOSING AMENDMENT OF  
ARTICLE 20 TO INCLUDE RECOMMENDATORY MEASURES?

(B) WHAT VOTING REQUIREMENTS FOR THE SAN JOSE CONFERENCE  
DOES THE USG BELIEVE THE COUNCIL WILL APPROVE?

THE GOC FAVORS A REQUIREMENT FOR A TWO-THIRDS VOTE FOR  
THE APPROVAL OF ANY AMENDMENT. BERNSTEIN EXPLAINS THIS POSI-  
TION ON TWO GROUNDS: 1) TREATY AMENDMENT IS SO SERIOUS A  
MATTER THAT SUCH APPROVAL SHOULD BE REQUIRED; 2) A TWO-THIRDS  
VOTE FAVORS COUNTRIES LIKE THE US AND CHILE WHICH PREFER AS  
FEW AMENDMENTS AS POSSIBLE.

(C) WHAT NUMBER OF COUNTRIES DOES USG BELIEVE COUNCIL WILL  
REQUIRE TO RATIFY PROTOCOL OF AMENDMENT TO BRING IT INTO FORCE?  
GOC IS HOPEFUL THAT COUNCIL WILL REQUIRE RATIFICATION BY TWO-  
THIRDS OF SIGNATORY STATES BEFORE PROTOCOL COMES INTO EFFECT.  
BERNSTEIN NOTES THIS WOULD BE CONSISTENT WITH ARTICLE 22 OF  
TREATY ITSELF AND OBSERVES THAT IF PROTOCOL CAN BE BROUGHT INTO  
EFFECT BY RATIFICATION BY SIMPLE MAJORITY OF SIGNATORIES WE WOULD  
HAVE CONFUSING SITUATION WHEREIN ALMOST AS MANY STATES WOULD  
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BE PARTIES TO ORIGINAL TREATY AS THOSE THAT ARE PARTIES TO A-  
MENDED TREATY.

ACTION: REQUEST REPLIES TO THESE QUESTIONS FOR TRANSMITTAL  
TO BERNSTEIN.  
POPPER

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